IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 974 of 2005

Dated 29th day of June, 2006

Between

Smt. J.Sankaramma ....Petitioner

And

The Secretary to the Government,
Education (PS) Department,
Government of AP, Hyderabad and ors.

....Respondents.

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO.974 OF 2005

ORDER:

Though WPMP is listed for hearing, but however, at the request of the parties on either side, the Writ Petition itself is taken up for final disposal.

This Writ Petition is filed questioning the proceedings dated 6-8-2005 issued in Memo No.36/PS-1/2005-2, by which, the first respondent has rejected the claim of the petitioner for counting her unaided service with effect from 1-3-1985 to 30-6-1998 for the purpose of pay fixation and other consequential benefits.

From a reading of the impugned order, it is clear that the claim of the petitioner was rejected mainly referring to an Ordinance,

namely, A.P. Private Aided Educational Institution Employees (Regulation of Pay) Ordinance No.3 of 2005. But, however, a Division Bench of this Court in the case of *Y.Sidda Reddy Vs. Government of Andhra Pradesh*[1] held that the Ordinance insofar as it deals with the aspect of pension is valid and the rest of the Ordinance is unconstitutional. In the aforesaid judgment, the Division Bench held as under:

> *"…..We have already recorded the conclusion that the State owes no constitutional obligation to pay employees of private educational institutions which impart education to the children above 14 years. Therefore, we do not understand the purpose sought to be achieved by the State in making the declaration such as the one made under Section 4 of the Ordinance at least insofar as it pertains to the employees of the aided private educational institutions which impart education to the children above 14 years. By making such a declaration the State is creating an artificial classification of the service rendered by the employee into two blocks, aided and unaided without there being any compelling Government purpose. Therefore, we are of the opinion Section 4(1) of the Ordinance is irrational and arbitrary and consequentially is liable to struck down. Accordingly we strike down Section 4(1) of the impugned Ordinance.*
>
> *In view of our conclusions recorded above, we hold that the Ordinance insofar as it deals with the aspect of pension is valid, the rest of the Ordinance must be held unconstitutional.*
>
> Xxxx xxxx xxxx
> Xxxx xxxx xxxx"

In view of the said judgment, it is submitted by the learned Counsel for the petitioner, that the subject matter of the WP is covered to be allowed. But, however, the learned counsel appearing for the respondents, without disputing that this Court has held to recon unaided service also for the purpose of fixation of pay

and other consequential benefits, submits that the petitioner has submitted representation on 30-01-2006 and the same is pending consideration.

In view of the judgment of the Division Bench of this Court, referred above, now the respondents have to compute the period of service rendered by the petitioner in un-aided post also. In that view of the matter, impugned order dated 6-8-2005 in Memo No.36/PS-1/2005-2 issued by the first respondent and consequential proceedings No.8970-B2/2004, dated 27-11-2005 issued by the fourth respondent are set aside. The respondents are directed to consider the representation of the petitioner dated 30-1-2006 and fix her pay and other consequential benefits in the light of the judgment referred above, within a period of two months from the date of receipt of this order.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 29-06-2006
Msnr.

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[1] 2006 (1) ALD 354 (DB)